

REMARKS

Claims 1 – 25 are pending. Claims 15 – 22 were previously withdrawn. Claims 1 – 14 and 23 – 25 were examined, and all were rejected. Claim 1 is the only examined independent claim.

Claims 15 – 22 have been canceled.

Claims 1 – 5 and 23 – 25 have been amended to obviate claim rejections, as discussed hereinafter.

Claims 9 and 12 have been amended by correcting minor informalities to clarify those claims.

Claims 26 – 28 have been added, and are directed to an embodiment falling within the scope of claim 1 as currently presented. Support is found in at least paragraph [0025].

No new matter has been introduced into the application by this amendment.

Claim Rejections – 35 USC § 101

Claims 1 – 14 and 23 – 25 were rejected under 35 USC 101 as being allegedly directed to non-statutory subject matter, because the method steps recited in claim 1 are not recited as being performed by any apparatus or device. Claim 1 has been amended to obviate the rejection.

Reconsideration and withdrawal of the section 101 rejection of claims 1 – 14 and 23 – 25 are respectfully requested.

Claim Rejections – 35 USC § 112

Claims 1 – 14 and 23 – 25 were rejected under 35 USC § 112 ¶ 2 as being allegedly indefinite, because the term “tolerant” recited in claim 1 is unclear. Claim 1 has been amended to obviate the rejection.

Reconsideration and withdrawal of the section 112 rejection of claims 1 – 14 and 23 – 25 are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1 – 14 and 23 – 25 were rejected under 35 USC § 103(a) as being allegedly unpatentable over Ginter *et al.* (US 6,253,193) in view of Salas *et al.* (US 6,314,408). The rejection is traversed with regard to claims as currently presented.

The claims as currently presented are directed to setting a licensing policy for using a digital product such as a software application by authorizing use of the digital product by a plurality of users during a trial period, monitoring the use of the product during the trial period, and updating the licensing policy based on the monitoring to authorize use of the product by a selected number of users after the trial period. Fewer users may be authorized after the trial period than during the trial period, and monitoring usage and modifying licenses based on the monitoring may be performed in a loop. In a newly claimed embodiment, the first users of the product during the trial period remain licensed users after the trial period. An administrator may thereafter redistribute the licenses.

In contrast, Ginter pertains to ensuring that electronic information is accessed and used only in authorized ways, and to maintaining the security of the information. Ginter provides a so-called virtual distribution environment (VDE) for securely managing electronic transactions, and to generally support the distribution of electronic information. However, Ginter does not teach updating a licensing policy based on monitored product use during a trial period.

Salas pertains, in relevant part, to controlling access to a product by generating and transmitting to one or more users a so-called license string for the product. The string is not transmitted to the users until payment is verified (Salas, 17:26 – 29). The license string must be entered by a user to use the product (id., 18:2 – 3). The license string may authorize use of the product by particular identified users, or by up to a predetermined number of users, at predetermined facilities and/or enterprise-wide (id., 18:44 – 19:3). Conversely, in an alternative embodiment, a product may be fully functional when distributed, and may be configured to disable itself if a valid license string is not entered by a user within a predetermined trial period (id., 19:41 – 44), or, a valid license string may be entered to extend the trial period for a predetermined amount of time (id., 19:48 – 50).

With regard to claim 1, the Examiner admits that Ginter does not disclose determining a licensing policy according to monitored parameter, and relies on Salas for that feature, citing Salas 1:32 – 60. Applicant respectfully disagrees. At the cited location and elsewhere, Salas does no more than enable a trial use of a product by a select population of users. Salas does not disclose, at the cited location or elsewhere, monitoring any product usage parameters, or updating a licensing policy based on a monitored parameter. Indeed, a computer search of the text of the Salas patent reveals it does not include even a single instance of the word “policy;”

"parameter" is used once to describe a license string entered by a user (Salas, 18:14); and "parameter" and "monitor" are each used once to describe an application program's input to a database (id., 14:17 and 14:30, respectively). Salas does not disclose, at the cited location or elsewhere, anything that can reasonably be construed to be "monitoring" usage. "parameters" during a product trial period, or determining a product "licensing policy" based on such monitoring, using those words or any others. A person of ordinary skill in the art would not find anything in Salas to supply the features missing from Ginter. Therefore, the section 103 rejection of claim 1 is not supported, and claim 1 is allowable over the cited references as combined by the Examiner.

Claims 2 – 14 and 23 – 25 depend from claim 1 and each comprises all of the features of claim 1. Accordingly, those claims are allowable for at least the same reasons claim 1 is allowable.

Furthermore, regarding claims 2 – 6, the Examiner relies on Ginter, 48:12 – 45 for all of the additional features of those claims over their base claim. Applicant respectfully disagrees with the Examiner's assertion. The cited passage discloses a VDE that applies different control information to different locations, or in "similar" (implying distinct) locations in differing content handling "chains." Applying different control information is understood to be somewhat analogous to implementing different policies for different groups of users. In contrast, the claims implement only one licensing policy, and that policy is modified based on monitored usage of the licensed product. Moreover, Applicant is unable to find in the cited passage any of the features contended by the Examiner to be present therein.

Regarding claims 7 – 14 and 23 – 24, the Examiner relies on various cited passages of Ginter for the additional features of those dependent claims over their base claim. However, Applicant is unable to find any of those features at the respective cited locations. If the Examiner maintains the rejection of those claims as currently presented, the Examiner is respectfully requested to identify with particularity where precisely the claim features contended to be present in the cited reference can be found.

For these reasons as well, claims 2 – 14 and 23 – 24 are deemed allowable over the cited references.

Conclusion

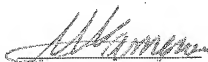
In view of the foregoing amendment and remarks, Applicant respectfully submits that the present application, including claims 1 – 14 and 23 – 28, is in condition for allowance and an early notice of allowance is respectfully requested.

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

Respectfully submitted,

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